

ORDINANCE NO. 09-19

ORDINANCE MODIFYING HIALEAH, FLA, ORDINANCE 08-67 (AUGUST 28, 2008) TO VACATE A UTILITY EASEMENT WITHIN AN AREA FORMERLY CONSTITUTING A 12-FOOT ALLEY SITUATED WITHIN BLOCK 6-A, OF THE AMENDED PLAT OF 15TH ADDITION TO HIALEAH, RECORDED IN PLAT BOOK 12, PAGE 76, AND LYING NORTH OF AND ADJACENT TO TRACT 6-A, OF THE SECOND REVISED PLAT OF HIALEAH 15TH ADDITION AMENDED, RECORDED IN PLAT BOOK 33, PAGE 49, OF THE MIAMI-DADE COUNTY PUBLIC RECORDS, LYING BETWEEN EAST 2 AVENUE AND EAST 3 AVENUE AND BETWEEN EAST 32 STREET AND EAST 33 STREET, HIALEAH, FLORIDA; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY CLAUSE; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Planning and Zoning Board, at its regular meeting of February 11, 2009, recommended approval of this ordinance;

WHEREAS, the alley vacated by Hialeah, Fla, Ordinance 08-67 (August 28, 2008) served no useful public purpose;

WHEREAS, the sole abutting property owner has entered into a 50-year ground lease with Publix who intends to incorporate the vacated right-of-way into a unified development plan of the entire block which is presently unimproved vacant land; and

WHEREAS, reserving a utility easement where there are no current utility facilities and none will be located in the easement under the proposed development creates an exception to title for purposes of insurance, prevents the future development of the site, and therefore serves no public purpose.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The utility easement reserved within an area formerly constituting a 12-foot alley situated within Block 6-A, of the Amended Plat of 15th Addition to Hialeah, recorded in Plat Book 12, Page 76, and lying north of and adjacent to Tract 6-A, of the Second Revised Plat of Hialeah 15th Addition Amended, recorded in Plat Book 33, Page 49, of the Miami-Dade County Public Records, lying between East 2 Avenue and East 3 Avenue and between East 32 Street and East 33 Street, Hialeah, Florida, closed, vacated, and abandoned for public purpose by Hialeah, Fla, Ordinance 08-67 (August 28, 2008), is hereby vacated.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be punished by a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent

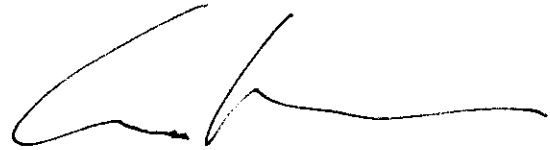
jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 10th day of March, 2009.

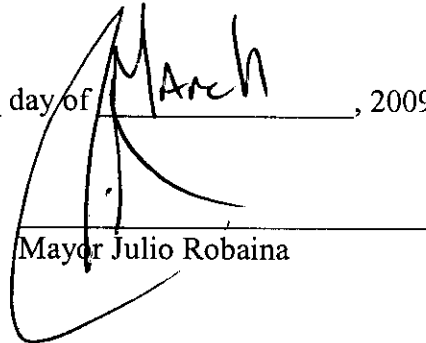
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Carlos Hernandez
Council President

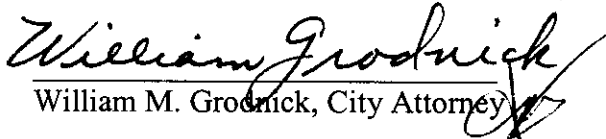
Attest:

Approved on this 11 day of March, 2009.


Rafael E. Granado, City Clerk

Mayor Julio Robaina

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

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Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes".